

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Justin Martin Jackson,)	
)	C/A No. 2:16-2099-MBS
Petitioner,)	
)	
vs.)	
)	ORDER
Kenneth Boone, Sheriff of Florence)	
County,)	
)	
Defendant.)	
_____)	

Petitioner Justin Martin Jackson is a federal pretrial detainee who currently is housed at the Florence County Detention Center in Effingham, South Carolina. On June 22, 2016, Petitioner, proceeding pro se, filed the within petition for writ of habeas corpus under 28 U.S.C. § 2241. Although it is not clear, it appears that Petitioner contends he is being detained unlawfully because certain pro se motions filed in his underlying criminal case have been denied or not ruled upon. See United States v. Bruce, Cr. No. 4:15-867 (BHH-5). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Mary Gordon Baker for pretrial handling.

The Magistrate Judge reviewed the complaint pursuant to the Rules Governing Section 2254 Cases, 28 U.S.C. § 2254, the Anti-Terrorism and Effective Death Penalty Act of 1996, and other precedents.¹ On June 30, 2016, the Magistrate Judge issued a Report and Recommendation in which she noted that Petitioner's allegations do not concern any issues usually cognizable under § 2241, such as challenges to the execution of a federal sentence, matters of parole and prison discipline, and challenges to extradition. The Magistrate Judge further observed that Petitioner possesses other

¹ The Rules Governing Section 2254 Cases are applicable to habeas actions brought under § 2241. See Rule 1(b).

avenues for relief should he be convicted of the offenses for which he has been indicted, such that his § 2241 petition is premature. Accordingly, the Magistrate Judge recommended that the § 2241 petition be summarily dismissed without prejudice and without issuance and service of process. Petitioner filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the recommendation of the Magistrate Judge and incorporates the Report and Recommendation herein by reference. The within § 2241 petition is summarily dismissed without prejudice and without issuance and service of process.

CERTIFICATE OF APPEALABILITY

A certificate of appealability will not issue absent “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise

debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir.2001). The court concludes that Petitioner has not made the requisite showing.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

August 30, 2016

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.